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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Masataka Okayama

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06/04/2007

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

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SUITE 370

ALEXANDRIA, VA 22314

EXAMINER

HOSSAIN, FARZANA E

ART UNIT

PAPER NUMBER

2623

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/965,148	<b>Applicant(s)</b> OKAYAMA ET AL.	
	<b>Examiner</b> Farzana E. Hossain	<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 49-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 49-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/15/2007 has been entered.

### ***Response to Amendment***

2. This office action is responsive to communications filed 02/26/2007 and 03/15/2007. Claims 1-6 and 49-54 are pending. Claims 7-48, 55-58 are cancelled. Claims 1, 54 are amended. Claims 2-6, 49-53 have been previously presented.

### ***Response to Arguments***

3. Applicant's arguments filed 02/26/2007 have been fully considered but they are not persuasive.

Regarding the Pietraszak rejection of Claim 54, the applicant makes similar arguments from the last office action. The applicant argues that Pietraszak does not disclose an exclusive memory is exclusively usable by a respective provider or send of data based on an instruction by a user (Pages 6-7).

Pietraszak discloses that the storage unit has a plurality of memory areas logically or physically separated from another (Figure 3, 60-63). Pietraszak discloses an electronic program guide loader or loaders for different service providers (Figure 2, 70, Figure 3, 70, 76) to load the data or EPG information, which includes a decoder for decoding the data and the data is collected (Page 4, paragraphs 0041, 0042). It is inherent for each loader to include a buffer to store the data as the loader is extracting data and the data is taken from the loader to the main storage unit. Pietraszak discloses a processing unit (Figure 2, 40, 41, 60, Figure 3, 40, 41, 60, 61, 62, 63) for securing in the storage unit an exclusive memory area which is exclusively usable by a provider or a sender of the data in the storage unit or an EPG loader specific to a service provider or sender of data who has exclusively uses the loader which necessarily includes a buffer (Figure 2, 40, 41, 60, Figure 3, 40, 41, 60, 61, 62, 63, Page 4, paragraphs 0041, 0042) and also a service provider has the power to exclude other senders of data from using the memory (Figure 3, 60-63, Figure 2, 60-63) by using a priority based on an instruction or designation by the user (Page 4, paragraphs 0041, 0042, Page 5, paragraph 0044). Therefore, Pietraszak discloses the provider that sends the data can alter and/or delete data in the exclusive memory area, however, the user can secure the memory for the provider by designating a priority.

4. Applicant's arguments with respect to claims 1-6 and 49-53 have been considered but are moot in view of the new ground(s) of rejection.

The applicant argues that Zigmond fails to suggest memory area or securing or deleting of data stored therein as now claimed (Page 7).

Zigmond discloses that the rules can be made by an agreement by the parties (Column 11, lines 54-55) or the rules can be determined unilaterally and one particular entity can have sole control (Column 11, lines 56-62). Therefore the memory area is subjected to restriction of at least one of alteration and deletion of the data based on an instruction from a user of the data receiving apparatus Zigmond discloses that it can be one or all or a combination. Zigmond discloses that advertisers can store advertisement parameters in the storage location (Figure 5, 83). See new rejection.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 54 is rejected under 35 U.S.C. 102(e) as being anticipated by Pietraszak et al (US 2005/0177849 and hereafter referred to as "Pietraszak").

Regarding Claim 54, Pietraszak discloses a data receiving method for receiving data transmitted via a broadcast wave or an electric communication line (Figure 2, 60, Figure 3, 60, 61, 62, 63, Page 4, paragraph 0039). Pietraszak discloses an electronic program guide loader or loaders for different service providers (Figure 2, 70, Figure 3, 70, 76) to load the data or EPG information, which includes a decoder for decoding the data and the data is collected (Page 4, paragraphs 0041, 0042). It is inherent for each loader to include a buffer to store the data as the loader is extracting data and the data is taken from the loader to the main storage unit. Pietraszak discloses a storage unit for storing received data (Figure 2, 60, 42, Figure 3, 42, 60, 61, 62, 63) in different memory areas among a plurality of memory areas include the exclusive memory area, wherein the received data is stored in the exclusive memory area when the received data is what is desired by the provider or sender to be store in the exclusive memory area (Figure 3, 60-63, Page 4, paragraphs 0041-0042) in response to a corresponding instruction from a user of the data other than the provider or the sender as the user designates a particular EPG data source or provider as having priority over another source or provider. There is a priority based on providers which necessarily includes an identifier as only high priority providers can store items in the storage unit (Page 5, paragraph 0044). It is necessarily included that an identifier is added to the received data, as the processing unit determines if the received data is data to be stored in the exclusive memory area (Page 4, paragraphs 0041, 0042). Pietraszak discloses a

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processing unit (Figure 2, 40, 41, 60, Figure 3, 40, 41, 60, 61, 62, 63) for securing in the storage unit an exclusive memory area which is exclusively usable by a provider or a sender of the data in the storage unit or an EPG loader specific to a service provider or sender of data who has exclusively uses the loader which necessarily includes a buffer (Figure 2, 40, 41, 60, Figure 3, 40, 41, 60, 61, 62, 63, Page 4, paragraphs 0041, 0042) and also a service provider has the power to exclude other senders of data from using the memory or storage unit (Figure 3, 60, Figure 2, 60) as the exclusive means to exclude or the power to exclude or wherein at least one of the plurality of memory areas is restricted memory area subjected to restriction of at least one of alteration and deletion of the data is prohibited if based on an instruction from a user of the data receiving apparatus or a provider other than the provider or a sender other than the sender or there are storage or record locations that data cannot be altered or deleted as only the provider of data can access the memory area of the particular loader to change the data or prohibits other providers from accessing the data (Page 4, paragraphs 0041, 0042).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 2, 5, 6 and 49-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Lund (US 6,512,551) and Coleman (US 2002/0026351).

Regarding Claims 1, Zigmond discloses a data receiving apparatus (Figure 4, 68, Figure 5, 80) for receiving data transmitted via a broadcast wave or an electric communication line (Figure 4, 52, 62, 64, 66, 60, Figure 5, 80), comprising a receiving unit for receiving the data (Figure 2, 60, Figure 3, 60), a storage unit for storing received data (Figure 5, 82, 81). Zigmond discloses the system is a processing device to perform certain functions, which reads on a processing unit performing functions (Column 6, lines 48-67). Zigmond discloses that the ad insertion device or data receiving apparatus with a processing unit performs the process of securing an exclusive memory area which is exclusively usable by a provider or a sender of the data in the storage unit or source of data or ad selection rules can be advertisers and the advertisers will have sole control over the data (Column 11, lines 50-65, Figure 4, 62) as the exclusive means to exclude or the power to exclude. Zigmond discloses the storage unit (Figure 5, 82, 81) which stores the data and has a plurality of memory areas logically or physically separated from one another (Figure 5, 82, 81), wherein at least one of the plurality of memory areas is a restricted memory area subjected to restriction of at least one of alteration and deletion of the data based on an instruction from a user of the data receiving apparatus (Column 11, lines 50-62), a provider other than said provider (Column 11, lines 50-62), or a sender other than the sender (Column 11, lines 50-62). Zigmond discloses that advertisers store ad selection criteria in the storage in a



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storage location (Column 11, lines 50-62), however does not explicitly state memory areas being exclusively usable by a respective provider or sender of data or respective advertiser in the storage unit. Zigmond is silent on the user of the data receiving apparatus other than the provider or the sender to provide an instruction, which causes the information about targeted advertisements to be stored.

In analogous art, Lund discloses a storage unit storing different sponsors information in separate locations in the storage (Figure 2, 305A-305N). In analogous art, Coleman discloses that a user provides an instruction to register a provider or particular entity for information (Page 6, paragraph 0055, 0061, Figure 3).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Zigmond to include memory areas being exclusively usable by a respective provider or sender of data or respective advertiser in the storage unit (Figure 2, 305A-305N) as taught by Lund as the advertisers will not be able to alter or delete another advertisers information or for instance Toyota advertisers will not have the ability to alter or delete Ford advertiser's information. Therefore, the combination of Zigmond and Lund provides a system of exclusive memory areas exclusively usable by a respective provider or sender of data.

Therefore, it would have been obvious to one of ordinary skill in the art to combine the invention of Zigmond which allows the provider or entity sending data of targeted advertisements to have exclusive control of a memory with modification with the invention of Coleman which allows a user to make an instruction or to request the advertisements (Page 6, paragraphs 0055, 0061, Figure 3). Therefore the combination

of Zigmond and Coleman disclose that in response to a corresponding instruction by the user of the data receiving apparatus other than the provider other sender to request targeted advertisements, the processing unit secures exclusive memory areas each being usable by a respective provider or sender for the benefit of providing an advertiser of potential purchasers who actually want targeted advertisements (Page 1, paragraph 0006) as disclosed by Coleman and also allowing a user to have control over the targeted advertisements.

Regarding Claim 2, Zigmond, Lund and Coleman disclose all the limitations of Claim 1. Zigmond discloses that the storage unit has a user memory area for storing received data in accordance with an instruction from a user of the data receiving apparatus (Column 10, lines 35-63, Column 11, lines 50-64).

Regarding Claim 5, Zigmond, Lund and Coleman disclose all the limitations of Claim 1. Zigmond discloses that an identifier added to received data, the processing unit determines if the received data is data to be stored in the exclusive memory area or based on storage limitations received data or selected advertisements is stored or not stored based on the advertisement selection rules or an identifier identifying the particular advertisements (Column 11, lines 31-62, Column 15, lines 18-24).

Regarding Claim 6, Zigmond, Lund and Coleman disclose all the limitations of Claim 1. Zigmond discloses that the storage unit (Figure 5, 81, 83) has a plurality of exclusive memory areas logically separated from one another in association with a plurality of providers or senders (Figure 4, 62, 66). The electronic program database

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stores main data about a broadcast program (Column 11, lines 1-12), it is well known in the art for delivering programming information (Column 11, lines 5-10). It is necessarily inherent that programming information is delivered from a program information source or a programming source. Zigmond discloses a further embodiment of a programming database being associated with a programming source (Figure 8, 66, 140) providing information to the receiving apparatus.

Regarding Claim 49, Zigmond, Lund and Coleman disclose the limitations of Claim 1. Zigmond discloses that wherein those memory areas which are other than the restricted memory area store main data about a broadcast program (Figure 5, 81); and the restricted memory area stores sub data about a commercial or service providing offer (Figure 5, 86, 83, 82).

Regarding Claim 50, Zigmond, Lund and Coleman disclose the limitations of Claim 49. Zigmond discloses the processing unit for changing sub data included in the main data to the sub data stored in the restricted memory area and displaying the main data containing the changed sub data on a display unit or the ad selection criteria uses the parameters and rules to change the sub data or advertisement (Figure 5, 83, Column 11, lines 13-49).

Regarding Claim 51, Zigmond, Lund and Coleman disclose the limitations of Claim 50. Zigmond discloses that the processing unit changes sub data included in the main data to the sub data stored in the restricted memory area when making a decision that an expiration period of the sub data included in the main data has passed or with

any time sensitive advertisements another advertisement can replace it (Column 14, lines 4-12).

Regarding Claim 52, Zigmond, Lund and Coleman disclose the limitations of Claim 50. Zigmond discloses that the processing unit changes sub data included in the main data to the sub data stored in the restricted memory area in accordance with a priority order predetermined for the sub data stored in the restricted memory area or a certain advertisement is displayed in reference to a specific program being displayed (Column 12, lines 66-67, Column 13, lines 1-3), an advertiser makes it a priority that his advertisement is shown regardless of programming (Column 12, lines 44-59), the profile of a particular viewer creating the priority of the advertisements (Column 2, lines 33-43), or the viewer selecting a particular advertisement or a default advertisement (Column 17, lines 3-9).

Regarding Claim 53, Zigmond, Lund and Coleman disclose the limitations of Claim 49. Zigmond discloses comprising a processing unit for inserting the sub data in the main data and displaying that sub-data inserted main data on a display unit (Figure 5, Figure 6).

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Lund and Coleman as applied to claim 2 above, and further in view of Hanai et al (US 2005/0160455 and hereafter referred to as "Hanai").

Regarding Claim 3, Zigmond, Lund and Coleman disclose all the limitations of Claim 2. Zigmond, Lund and Coleman are silent on displaying memory capacity. Hanai

discloses an entertainment system which a provider transmits data to the user's receiver (Figure 1, Figure 2). Hanai discloses processing unit or record manager displaying on a display unit an unused memory capacity or available capacity (Page 4, paragraph 0051), a used memory capacity (Figure 10, Page 4, paragraph 0051) of the user memory area. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include processing unit or record manager displaying on a display unit an unused memory capacity or available capacity (Page 4, paragraph 0051), a used memory capacity (Figure 10, Page 4, paragraph 0051) of the user memory area as taught by Hanai in order to for the receiver to choose the optimal record media based on program data quantity (Page 1, paragraph 0008) as disclosed by Hanai.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Lund and Coleman as applied to claim 1 above, and further in view of Fell et al (US 6,674,994 and hereafter referred to as "Fell").

Regarding Claim 4, Zigmond, Lund and Coleman disclose all the limitations of Claim 1. Zigmond discloses an electric communication line (Figure 4, 52, 64). Zigmond, Lund and Coleman are silent on the processing unit transmitting an entire memory capacity based on a predetermined schedule upon reception of a request. Fell discloses a transmitter and a receiver for delivery of a data file (Column 2, lines 3-7). Fell discloses that the controller or processing unit transmit the storage capacity in accordance with a predetermined schedule or a scheduling order upon the reception of

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a request or the transmitter sends a data file upon a request via a scheduling order and based on the storage capacity of the receiving side the storage can be conducted at the receiving side (Column 6, lines 1-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include processing unit transmit the storage capacity in accordance with a predetermined schedule or a scheduling order upon the reception of a request (Column 6, lines 1-15) as taught by Fell in order to have a automated transfer of files in a cost effective manner (Column 1, lines 21-24) as disclosed by Fell.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

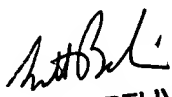
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH

May 29, 2007

  
SCOTT E. BELIVEAU  
PRIMARY PATENT EXAMINER